

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARCOS RAYOS,

Plaintiff,

v.

SHANE JACKSON, *et al.*,

Defendants.

CASE NO. 1:18-CV-1240

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 59) and Plaintiff’s Objections (ECF No. 61). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s Objections. The Court finds the Magistrate Judge’s Report and Recommendation, which recommends denying Plaintiff’s motion for partial

summary judgment (ECF No. 39) and granting the motion for summary judgment filed by Defendants Findley, Hoffman, and Trefil (ECF No. 44), factually sound and legally correct.

The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. Plaintiff's objections do not address the Report and Recommendation in a persuasive way. The Report and Recommendation recommends summary judgment primarily because there is no evidence in the record that Defendants Findley, Hoffman, or Trefil had notice of the alleged protective activity. In his objections, Plaintiff ignores this key point. None of Plaintiff's objections change the fundamental analysis in this matter. Summary judgment in favor of Defendants Findley, Hoffman, and Trefil is appropriate, for the very reasons the Report and Recommendation details.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 59) is **APPROVED AND ADOPTED** as the opinion of the Court.

2. Plaintiff's Motion for Partial Summary Judgment (ECF No. 39) is **DENIED**.

3. Defendants Findley, Hoffman, and Trefil's Motion for Summary Judgment (ECF No.44) is **GRANTED**.

4. For the same reasons that the Court dismisses Plaintiff's claims, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997) (overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007)).

This case is **CLOSED**.

Dated: January 30, 2020

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE